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THE OBSERVATOR.

The Obſervator's *further Vindication. Of the Nature of Libels. Of the Diſcovery of a* Jacobite *Conventicle in* Red-Lion-Square, *and Apprehending the Preacher. Of a Parſon in* Berkſhire *that won't Pray for the Queen. The Caſe of Mr.* Gill, *Preacher to a Diſſenting Congregation in the Iſle of* Ely.

From Wednesday November the 1ſt, to Saturday November the 4th, 1704.

Country-m. WELL, Maſter *Obſervator*, the Day is come, and therefore let us have a little more Diſcourſe concerning your Buſineſs. I think you have plainly proved that the Juries are Judges of *Law* as well as *Fact*.

Obſ. They ever were ſo; and in my Caſe the Jury ought to take the more particular Care. I am Try'd upon an *Information* in the *Crown-Office*; a ſort of Proſecution we eſteem *Litigious* and *Malicious* betwixt Man and Man. Here I am to have but one Jury, when, as if I had been Indicted, a Grand and a Petty Jury muſt have conſidered the Caſe; therefore the Jury that try the Cauſe, in ſuch Caſes, ought to conſider themſelves as a Grand and a Petty Jury both; for there is no farther Relief for the Party Proſecuted after their Verdict, and they ought to have as tender a Regard to their Neighbours Life, his Reputation or Eſtate as their own.

But my Caſe ought to be more particularly conſider'd, for I think it is ſingular, I don't know in my Time, that ever a Perſon was Proſecuted as an Enemy to the Government for Detecting the Frauds of Officers: A Queen may be a good Queen, yet ſhe may have an Evil Miniſtry, Bad Officers, that Miſ-employ or Embezel the Publick Moneys; and certainly there is no Law againſt a Perſon that ſhall make a diſcovery of theſe things; and in this Point I think the Jury muſt conſider *Law*, whether the *Information* be founded on *Law*, as it ſays *Malicious*, *Seditious*, with *Intent*, &c. for if no poſitive *Law* does ſay that a Perſons Information of Publick Abuſes is a *Malicious* and *Seditious* Deſign, the Jury cannot in Conſcience find it ſo.

Truth can never be the Ground of a *Libel Defamatory*, and therefore all the Statutes to which *Scandalum Magnatum* has any Reference, whether that of Three *Edw.* 1. 4. or thoſe Two of *Richard* the Second, Queen *Mary*, or Queen *Elizabeth*, are only againſt ſuch as tell falſe Tales, or falſe News, and ſuch too *whereby Diſcord may ariſe*.

A Libel muſt be falſe and tending to *Diſcord*. The Puniſhment of a *Libeller* was never a *Pecuniary Mulct*, till King *James* the Firſt. *Bodily Puniſhment* made Satisfaction for *Wounded Honour*, nay, by the Firſt and Second of *Philip* and *Mary* III. the greateſt Scandalous Words againſt the King and Queen were only Puniſhed by Bodily Puniſhment, which a Man might have bought off (whether the King would or no) for 100 *l.* and that not with ready Money, but at any Time within a Month ſo tender were our Anceſtors of undoing Men for ill Words, even againſt the King; then certainly the Juries ought to take care how they Ruin their Neighbour, for pretended Falſhoods againſt Officers.

Country-m. But ſome People ſay you ought not to Try your ſelf in Print; that is a thing that is New, for a Man to Publiſh his Caſe.

Obſ. All Appeals from Equity to the Houſe of Lords are Printed: I have delivered Printed Caſes to the Houſe of Commons, and Caſes of this Nature are Publiſhed every Year, and as often as the Parties concerned do think fit. But I have two ſorts of Proſecutors, thoſe that Proſecute in the Queens Name in Court, and ſuch as Proſecute me Publickly in Weekly Libels: Now, if a Club of *Jacobites*, *Papiſts*, and *Nonjurors*, may have the Liberty to miſrepreſent me in Print to the People, I hope I may have the Liberty of Defending my ſelf, and of giving the World a true State of my Caſe: Theſe Libellers have a Fund to carry on the Work againſt me; they give away their Papers; and I would deſire Mankind to take their Meaſures of me from my Enemies; all the *Papiſts*, *Nonjurors*, and the Enemies of the Government are my Sworn Enemies, and then let any Man, in Conſcience, judge whether I can be an Enemy to the Government my ſelf.

Country-m. Truly, Maſter, the *Jacobites* are very Rampant, they keep Conventicles where they Pray for their little Maſter at St. *Germains*. One *Sellers*, a *Jacobite* Preacher, has a long time kept a Conventicle in *Red-Lyon Square*, where, inſtead of Praying for the Queen, he Pray'd for the King, our Soveraign Lord, our moſt Gracious King, and for her always ſaid him: this Man was Taken up, by the Recorders Warrant, on *Sunday* the 29th of *October*, and was Bound over, himſelf in 100 *l.* and his Sureties in 50 *l.* each.

Obſ. I think that's High-Treaſon; and yet his Security is leſs than mine by 800 *l.* you know the Old Proverb.

Country-m. And I am told of a Parſon in *Berkſhire* that won't Pray for the Queen in his Church.

Obſ. I have heard of that Parſon, but I wiſh I have not ſpoken too much on that Head already. I gave the Government an Account of a *Jacobite* Meeting at *Norwich*, kept up with unparalell'd Impudence; and many of theſe Conventicles have we in *England*; and tho' theſe are *Diſſenters*, both from the Church and State, yet I think this is the firſt Inſtance I have known of any ones being Bound over on that Account.

But I'll tell you a Story on the other ſide: One *Gill*, of *Willney*, in the Iſle of *Ely*, a Preacher to a Congregation of *Diſſenters* in *Upwell*, who had quality'd himſelf as the Law in that Caſe directs, yet was he Proſecuted by the Malice of a Church Miniſter, was Impriſoned at *Cambridge*, nothing brought againſt him the firſt Seſſions, an Adjourned Seſſions and nothing brought againſt him, yet ſtill detained a Priſoner.

Hereupon *Gill* gets a *Certiorari*, upon which the

the Juſtices procur'd a *Habeus Corpus*, and *Gill* was removed from *Cambridge* to *Norwich* Goal, and continued a Priſoner to the end of the Aſſizes and nothing yet appear'd againſt him, and ſo he was diſcharged by due Courſe of *Law*, and Regiſter'd there, diſcharged *July* 1703.

Gill continuing ſtill to Preach, a Warrant was procured which was ſerved on him the 13th of *March* to appear on the 20th, and the Curate of *Upwell* deſired the Conſtable to keep *Gill* a cloſe Priſoner, for he ſhould certainly go to Goal, and *Hoped his Body would rot in Goal, and his Soul periſh Eternally*; but the Conſtable took *Gill*'s Word for his Appearance.

At the Time appointed *Gill* appear'd at *Wiſbech*, and ſhewed his Licence, but received very ill Language from the Pariſh Prieſt and his Curate; and *Gill* was ſent to Goal, they not ſuffering him to go out of the Room to find Bail, he continued in Priſon a Week, and then a Captain being produced, *Gill* was ſent for a Soldier.

Gill alledged they could not ſend him for a Soldier, he being a *Free-holder* in *Lancaſhire*, as alſo a Freeman of *Wigan* in the ſame County, however the Juſtices ordered the Captain and Soldiers to take *Gill* by force, and ordered the Soldiers to tear *Gill*'s Band from about his Neck, and charg'd them to uſe him Severely.

Gill was taken by the Soldiers to a Room, where he had only Straw to lye on for about a Week, and then was forced to March with them about 40 Miles, when coming to *Cambridge*, *Gill* was Arreſted for Debt and ſo got ſome Eaſe. Of this I can produce Affidavits.

This Man is a *Proteſtant* and every way Conformable to the Government, and I mention his Caſe to let you ſee the *Partiality* as well as *Illegality* of ſome Proſecutions.

Country-m. This is a very hard Caſe; but to your own Caſe: I fancy you had better have let alone Writing, your Enemies are too hard for you.

Obſ. If the *Law* ben't too hard for me, 'tis well enough. I know no *Law* I have Tranſgreſs'd, and for *Innendo's*, and *Miſapplication* of Matter, that I muſt leave to the Conſciences of the Jury, who, if Men may be Proſecuted by *Innendo's*, are not themſelves ſafe from the *Malice* of any one that will Proſecute.

As to my Writing, I have as good a Right to uſe my Pen in Defence of *Engliſh Liberty*, the Rights of the Kingdom, and the Settlement of the Crown, as any one has to Write againſt it, as many have done and have not been Proſecuted. This I hope the Jury will conſider, and not find a *Proteſtant* Guilty for Writing againſt *Papiſts*; let 'em Read the *Exorbitant Grants*, and other Libels that I have anſwered, in them they may find *Treaſon* without *Innendo*. The Author of the *Exorbitant Grants*, inſtead of being Puniſhed, ſoon after he wrote that Book had his Liberty from the *Queens-Bench*, where he had lain ſome Time under a Fine, upon Conviction in the late Reign.

Country-m. If you are Fined I believe you muſt Pay the ready.

Obſ. I have better hopes of the Citizens of *London*; they have ſeen the ill Effects of Party-Proſecutions in former times, and I believe are better inform'd than to tear off a Member from their Body out of a Humour of pleaſing a Party, I have known and experienced better things of them in this Reign, when I was Indicted at the *Old-Baily* for Writing againſt the *Papiſts*.

I would not be miſunderſtood, and thought to beg the Favour of the Jury; an Innocent Perſon needs not Petition for Kindneſs. All I deſire is that they would conſider my Caſe as their own, and not bring in a haſty and raſh Verdict, that they can Act ſo as they can Anſwer to God and their own Conſciences, and remember how many of their Patriots have been *Innendo'd* out of their Lives by Partial Proſecutions.

I have made all the Offers that any Wiſe Man, at leaſt an Innocent Perſon could make to the Miniſtry. At the firſt fault found with my Paper, I offered to lay it down, provided the Miniſtry would Suppreſs thoſe Virulent Libels that were Written in Favour of the Pretender, and againſt the *Hannover* Succeſſion, and indeed theſe Libels were the occaſion of my Writing; ſome People ought to uſe the Pen as well as the Sword in Defence of our Country; and, I thank God, I have done both oftner than once.

I have offered to the Miniſtry to lay down the Paper provided the Proſecution might ceaſe, but it could not be granted. Now any Man in his Wits, muſt Judge me out of mine, or Judge me a meer Coward, ſhould I lay down what is my Defence againſt the *Jacobite* and *Popiſh* Libels, Printed Weekly againſt me.

Now, ſince I can appeal to God and my own Conſcience, that I never had any Deſign againſt this Government, ſince it is apparent to all good Men that I have done the Queen and Nation ſingular Service in detecting its Enemies, and the Frauds and Miſmanagements of Officers. I can reſt my ſelf contented under any *Verdict Sentence*, well knowing that Corrupt *Verdicts* will hurt others more than my ſelf.

However I have *Engliſh Law* to defend my ſelf, it cannot be ſuppoſed but I will make uſe of it, I ſhan't plead Guilty, tho' I had better aſſurance than ever Mr. *Foe* had, I can believe the Scriptures that great Men are a Lye, and can truſt to the Honeſty and Conſcience of my Fellow Citizens; I have Learned Council, and I can truſt to their Honeſty, and I ſhan't bate one Inch of *Law*. But it grows late, and I muſt conſider of ſome neceſſaries to my Trial.

Country-m. God Bleſs you, I wiſh you a good Deliverance, with all my Spirit; Confounded be all the Enemies of Old *England*. *Amen*.

WHereas the Author of this Paper received a Letter, Dated the 29th of *October*, giving an Account how a Parſon at a Coffee-Houſe in *Covent-Garden*, had ſpoken divers Reflecting Words on the Houſe of *Hannover*, and the Succeſſion of that Houſe to the Crown of *England*: The ſaid Author thinks fit to inform the Perſon that ſent the Letter, that the Words there ſpoken are within the Act for making it High-Treaſon to Speak or Write againſt the Succeſſion as Eſtabliſhed by Law. And that the Perſons who heard the Words are no Friends to the Queen, the Proteſtant Succeſſion, or the Good of Poſterity, if they do not Inform the Government thereof, in order to the Parſons, being Proſecuted for the ſame.

Advertiſements.

THE Famous Cholick-Water (ſo often mention'd in the Gazette, and ſo well known throughout England, for its ſpeedy giving Relief in caſes of Wind, Wind-Cholick, Vapours, Stitches and Pains in the Sides, and Gripes, in Vomiting and Looſeneſs, and if any Perſon be Sickiſh after eating too much, too Raw, or as it may happen in hot Weather, not throughly ſweet, or drinking bad Wine, or fear of a *Surfeit* after Fruit, or any thing lies hard and undigeſted at the Stomach, it helps immediately.) It's ſold by *S. Clark*, in *Birching-Lane*, near the Royal *Exchange*. *Old Man's* Coffee-Houſe at *Charing-Croſs*, *Richard's* at *Temple-Bar*, and *Allice's Coffee-Houſe* at the Parliament Houſe, at 2*s.* 6*d. per* Bottle. 'Tis a Rich *Cordial*, pleaſant to take 2 or 3 Spoonfuls at any time; and did Perſons but know the uſefulneſs and certainty of it (which they will by trying moſt aſſuredly find) no one would be without for ten times the value, and it might ſave the Lives of Hundreds if it were taken on Board a Ship, and to the *Weſt-Indies*, where Fluxes, and Gripes, *&c.* ſo much Reign.

THE Athenian Spy: Diſcovering the Secret Letters, which were ſent to the *Athenian Society*, by the moſt Ingenious Ladies of the Three Kingdoms, relating to the *Management of their* Affections with their Anſwers; being a Curious Syſtem of *Love* Cafes, Platonick and Natural: Containing the *Principles of Love*, according to Plato's Idea: And *The way of A Man with a Maid*. Or, The *Whole Art of* Amour, in all its *Intrigues* and *Amuſements*, till its Conſummation in Enjoyment; with private Inſtructions to the Bride and Bridegroom, and a Modeſt Eſſay on due Benevolence, or the ſeaſonable uſe of the Marriage Bed. An Invention for the helping off of old Maids, and a project of an Office for the Unmarrying ſuch as are unequally Yoaked. With other Curious particulars, and great Variety of Poems, being an intire Collection of the *Love Secrets*, ſent to the *Athenian Society* Price 2*s.* 6*d.* Printed for *R. Halſey*, and are to be Sold at the *Golden Pyramids* in the *Old Jury*, next the *Poultry*.

London, Printed and Sold by *J. How*, at the *Seven-Stars*, in *Talbot-Court*, in *Grace-Church-Street*, 1704